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IN THE

Supreme Court of the United States

OCTOBER TERM, A.D. 1967

No. 379

SAMUEL SOSA,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

Petition For Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

SAM ADAM,
ANGELO RUGGIERO,
134 N. LaSalle Street,
Chicago, Illinois 60602,
ANdover 3-6073,
Attorneys for Petitioner.

MIDWEST LAW PRINTING CO., 326 N. MICHIGAN, CHICAGO 60601, FINANCIAL 6-2969

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To: The Honorable Chief Justice and Associate Justices of The Supreme Court of the United States:

Petitioner, Samuel Sosa, respectfully prays that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Seventh Circuit, which affirmed the judgment of the District Court wherein petitioner was convicted of the crime of unlawfully, wilfully and knowingly conspiring to combine and confederate with Julio Argumedo and other persons unknown to receive, conceal, buy, sell and facilitate the transportation and concealment of unlawfully imported heroin.

OPINION BELOW.

No opinion was rendered in the United States District Court for the Northern District of Illinois, Eastern Division. The opinion of the United States Court of Appeals is printed in the Appendix hereto.

STATEMENT OF JURISDICTION.

The judgment of the Court of Appeals for the Seventh Circuit was entered on May 22, 1967. The Petition for Rehearing was denied on June 15, 1967. The jurisdiction of this Court is invoked under Title 28, U.S.C., Section 1254 (1), 62 Stat. 928, and under the supervisory powers of the Supreme Court of the United States over Federal Courts.

QUESTION PRESENTED.

Whether, where in a trial an informer was the only person who could or could not corroborate the Government's sole witness on Petitioner's participation in an alleged conspiracy, and the non production of the informer and the giving of a vague, inadequate and indefinite address is fairness comporting with fundamental due process and is a deprivation of defendant's right to a fair and impartial trial where the Government elicited testimony as to the informer, said procedure in the lower Court being in conflict with *Roviaro* v. *United States,* 353 U.S. 53 and *McCray* v. *Illinois,* 18 L. ed. 2nd 62.

CONSTITUTIONAL PROVISIONS INVOLVED.

The Fifth Amendment to the Constitution of the United States provides:

> "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation."

The Sixth Amendment to the Constitution of the United States provides:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

STATEMENT OF CASE.

Petitioner, Samuel Sosa, was indicted for the crime of unlawfully, wilfully and knowingly conspiring to combine and confederate with Julio Argumedo and other persons unknown to receive, conceal, buy, sell and facilitate the transportation and concealment of unlawfully imported heroin in violation of Section 174 U.S. 21 United States Code.

One Government narcotic agent testified that he was introduced to the Petitioner in Petitioner's tavern in Chicago, Illinois, and subsequent thereto engaged in certain conversations with the Petitioner wherein narcotics and the purchase thereof were discussed. Subsequent thereto narcotics were found in the possession of the co-defendant, Julio Argumedo. Any and all conversations between the Petitioner and the agent as alleged by the witnesses took place in Petitioner's tavern. Petitioner denied on trial that he discussed narcotics with the agent and denied that he was introduced to the agent by an informer. The agent's testimony as to the introduction and as to conversations with the Petitioner was not corroborated in any way, shape or form.

The trial Court was of the opinion that the informer was a non participant in the crime, but allowed disclosure after Petitioner stated that he wished to call the informer as a witness to impeach and to contradict the testimony of the agent. Disclosure consisted of the name of the informer and the address, "to the best of his knowledge, your Honor, it is 701 W. Belmont".

REASONS FOR GRANTING THE WRIT.

The Court of Appeals in its Opinion stated that the name and address of the informer had been furnished and that the informer was not a participant in the crime. As argued before the Circuit Court of Appeals, the giving of this information was as if giving no information at all. Not only was the information totally inadequate and vague, it shifted the burden upon the Petitioner to prove his innocence. The Opinion states that what the Government did was "fairness" and more was not required. This is assuming that an address was given. The Petitioner claims no address was given, and therefore, there was not fairness comporting with due process, so that Petitioner could receive an impartial trial. "701 W. Belmont" encompasses more than one city in the Cook County area in Illinois.

The Opinion that the informer was not a participant is assumption only. On both these points the Court begged the question. No where in its Opinion does the Court cite cases or precedent to sustain its position. In the case at bar, it is not uncontradicted that only the agent testified as to Petitioner's conversations with him and these conversations took place in Petitioner's bar and were uncorroborated. The Government chose to insert into the record, testimony, that the agent was introduced to the Petitioner by an informer. In making this insidious assertion the informant's posture in this case becomes relevant. This testimony occurred in the trial of the cause and not upon a hearing on probable cause. Having elicited

this testimony, the proper address of the informer should have been disclosed or the informer produced. The agent's good faith and credibility was put in issue, he being the only witness to Petitioner's conversations.

Commencing with *Scher* v. *United States,* 305 U.S. 255, (1938), the proposition was sustained that an informer's identity is necessary where the evidence is useful to vindicate the innocence of the accused and to a proper disposition of the case, especially where this turns upon an officer's good faith.

In *McCray* v. *Illinois,* 18 L. Ed. 2d (1967), the latest word on the informer's privilege, the United States Supreme Court, in citing and discussing *Roviaro* v. *United States,* 353 U.S. 53 (1957), disclosure and other cases, in the course of its Opinion, distinguished between a hearing on probable cause and the trial itself, pointing out that a truthful verdict outweighs society's need for the informer privilege where the issue is the fundamental one of guilt or innocence. The Court stated where disclosure of an informer is relevant and helpful to the defense of an accused or is essential to a fair determination of a case, the privilege must give way.

McCray rejected the concept of compulsory disclosure at a preliminary hearing in a State case, but did not discuss that concept if it arose at the trial on the merits. Pervading throughout is the idea that disclosure means proper disclosure, sufficient and adequate enough to apprise the defendant of the informer's whereabouts. Where there is inadequate, indefinite and vague disclosure, this is as giving no information at all.

In *Dennis* v. *United States,* 384 U.S. 855, 16 L. Ed. 2d 973 (1966) a conspiracy case, the Court held, as to a defendant's rights to Grand Jury minutes,

> "• • • we cannot accept the view of the Court of Appeals that it is 'safe to assume' no inconsistencies would have come to light if the grand jury testimony had been examined. There is no justification for relying upon 'assumption'."

The language in *Dennis* is especially appropriate here where both the lower Court and the Court of Appeals assumed that the informer was not a participant and the defendant was given the informer's name and address. Such assumptions were not warranted by the Record and both Courts erred in not compelling the informer to be produced and a proper disclosure given.

In the instant case the defendant denied conversations and any activity with the agent. On the basis of that record the informer should have been produced or proper disclosure given.

In *People* v. *McShann,* 50 California 2d 802, the Appellate Court stated,

> "That very evidence was in issue, however, for defendant denied that he received such calls or that he made such a sale. There was no finding that the defendant knew the informer and it cannot be assumed that he did. Such an assumption would in effect assume his guilt. • • • The rationale of the criminal cases is that, since the Government which prosecutes an accused also has the duty to see that justice is done, it is unconscionable to allow it to undertake prosecution and then invoke its governmental privileges to deprive the accused to anything which might be material to his defense • • • 345 U.S., at 12 • • •

> Defendant denied * * * that he received the alleged telephone call. * * * Although the informer in the present case was not an eye-witness to the crime, as John Doe was in the *Roviaro* case, the prosecution's own election to introduce evidence of the telephone conversation made it imperative that it disclose the identity of the informer, for he alone could amplify or contradict the testimony of the officers. As in the *Roviaro* case nondisclosure was prejudicial error."

United States v. *Fay,* 234 F. Supp. 543 (1964) sustained the same proposition, where a telephone call from an informer was introduced into evidence by the prosecution, in a hearing on probable cause. On appeal the Circuit Court of Appeals, *United States* v. *Fay,* 344 F. 2d 625, although reversing, distinguished between probable cause and a trial, stating,

> "We believe, however, that in this area a distinction must be made between the rules at a trial to determine guilt, as in *Roviaro* and *McShann* and at a hearing to determine probable cause as in our case."

In *United States* v. *Goss,* 237 F. Supp. 26 (1965), the Court held that not only the name and address of an informer must be given to the defendant, but in addition, the informer's telephone number. *Fay* and *Goss* both quote from *Roviaro.* The privilege must give way where essential to a fair determination of a cause. In the annotation to *Scher* v. *United States,* 305 U.S. 255, the following language is applicable,

> "If what is asked is useful evidence to vindicate the innocence of the accused or lessen the risk of false testimony or is essential to the proper disposition of the case, disclosure will be compelled."

In the case of *United States* v. *Hanna,* 341 F. 2d 906, the conviction was affirmed wherein the defendant did

not point out in what way he was prejudiced or deprived of a fair trial when asking for the disclosure. In *Firo* v. *United States,* 340 F. 2d 597 (1965), the conviction was affirmed where the defendant did not seek the identity of the informant.

In *United States* v. *Coke,* 339 F. 2d 843, and *United States* v. *Russ,* 362 F. 2d 843, the Circuit Court of Appeals in both cases held that where it is shown how and why the informer's identity would be helpful to the defendant, disclosure should be made.

The record in the instant case shows precisely that this is why the Petitioner wanted proper disclosure. In *United States* v. *Pruitt,* 331 F. 2d 232 (1964), the Government did make an attempt to locate the informer, but could not locate him even though the defendant knew the informer. Here the agent's uncorroborated testimony was thrown open to doubt and good and sufficient reason was given to the lower Court for proper disclosure.

In *Roviaro* v. *United States,* 353 U.S. 53, the defendant was convicted under 21 U.S.C. Section 174, the same Statute which the Petitioner, in the instant case, has been convicted of violating. The lower Court in that case allowed the Government to refuse the identity of an informer who had taken part in bringing about the possession of certain drugs by the defendant and who had been present at the occurrence in the alleged crime. The United States Supreme Court in compelling disclosure stated,

> "The Government's use against petitioner of his conversation with John Doe while riding in Doe's car particularly emphasizes the unfairness of the non-

> disclosure in this case. The only person, other than petitioner himself, who could controvert, explain or amplify Bryson's report of this important conversation was John Doe. Contradiction or amplification might have borne upon petitioner's knowledge of the contents of the package or might have tended to show an entrapment. * * * The informer was the only witness in a position to amplify or contradict the testimony of government witnesses."

In footnote 15 in *Roviaro,* the Court stated, that the trial Court erred in denying Petitioner's Motion for a Bill of Particulars in so far as it requested John Doe's identity and address and here when the informer's name and address was thus requested the Government should have been required to supply said information or suffer dismissal of that Count. The foregoing language is the position of the Petitioner.

The United States Supreme Court in 87 Supreme Court Reporter 1693, June 15, 1967, No. 956-Misc. in the case of *Fleming Smith* v. *Illinois* allowed a Petition for Writ of Certiorari to the Appellate Court of Illinois, First District on the following question,

> "Did informer's refusal to disclose his name when he testified against defendant and state's failure to disclose his name, deprive defendant of his Sixth Amendment right of confrontation?"

In *Fleming* the informer took the stand and testified but refused to divulge his correct name. The Petitioner submits that his grounds are more reasonable where the informer was not produced and insufficient disclosure given him as to the informer.

CONCLUSION.

This Court has never answered the precise question of whether the inadequate disclosure of an informer is sufficient to sustain a conviction where the Government elicits testimony that the defendant was introduced to a sole uncorroborated Government witness by an informer and then fails to produce the informer and gives totally inadequate information to locate him. The Petitioner respectfully submits that non production of the informer and inadequate information places too great a burden upon the defendant, does not comport with fairness and fundamental due process and is a gross miscarriage of justice when considered in the light of a man's guilt or innocence where an informant allegedly introduced the one uncorroborated witness of the Government to the defendant. The production of the informant and sufficient information given could have shed light at the very threshold of the case as to whether or not the informant, if any, did introduce the agent to the defendant and whether or not the informer participated in the crime.

Respectfully submitted,

SAM ADAM,
ANGELO RUGGIERO,
134 N. LaSalle Street,
Chicago, Illinois 60602,
ANdover 3-6073,
Attorneys for Petitioner.

APPEARANCE.

I, Sam Adam, a member of the Bar of the Supreme Court of the United States, do hereby enter my Appearance for Samuel Sosa, Petitioner.

/s/ Sam Adam
134 North LaSalle Street
Chicago, Illinois 60602
AN 3-6073

CERTIFICATE OF SERVICE.

I, Sam Adam, an attorney of record for Samuel Sosa, Petitioner herein, depose and say that on the 14th day of July, 1967, I served a copy of the foregoing Petition, by mailing the same, with first class postage prepaid, to the following counsel of record:

Solicitor General
Department of Justice
Washington 25, D.C.

Edward V. Hanrahan
United States Attorney
219 South Dearborn
Chicago, Illinois 60604

/s/ Sam Adam

Subscribed and sworn to before me, at Chicago, Illinois, this 14th day of July, 1967.

/s/ Agnes Ginty
Notary Public

My Commission Expires December 13, 1970.

APPENDIX A

In the

United States Court of Appeals

For the Seventh Circuit

SEPTEMBER TERM, 1966 — APRIL SESSION, 1967

Nos. 15810-15811
UNITED STATES OF AMERICA,
Appellee,
vs.
SAMUEL SOSA and JULIO ARGUMEDO,
Appellants.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

May 22, 1967

Before HASTINGS, *Chief Judge,* and CASTLE and SWYGERT, *Circuit Judges.*

HASTINGS, *Chief Judge.* These are two appeals from convictions of Samuel Sosa and Julio Argumedo, on an indictment charging them with conspiracy to deal in narcotics, in violation of Title 21 U.S.C.A. §174, following a bench trial by the district court. Each was sentenced to serve a term of six years imprisonment.

On appeal, Sosa contends the trial court erred in failing to produce an informant and in not giving him ample time to interview the informant. He also urges he was not proven guilty beyond a reasonable doubt.

In his appeal, Argumedo contends he was entrapped and that the trial court abused its discretion in refusing to permit him to present his testimony with the aid of an interpreter.

The Government's chief witness was narcotics agent, Robert E. Waltz. He testified that while working as an

undercover agent, he was introduced to Sosa by an informant on September 17, 1964. He evidently developed his contact with Sosa, and on November 17, 1964, Sosa informed him he had a quantity of heroin available through a friend. Waltz expressed interest in purchasing heroin, and Sosa told him he would introduce him to the friend, who was Mexican and spoke English with an accent. Sosa indicated he would arrange a meeting and also stated that he was to receive as much as $2000 for arranging the deal.

The meeting was held at the Cafe Olé in Chicago, Illinois, where Sosa told Waltz he would meet a man named Julio. Waltz met Julio Argumedo as planned, who told him the heroin was in Mexico. At a subsequent meeting, Argumedo told Waltz he would go to Mexico to get the heroin and contact Waltz when he returned.

On December 22, 1964, Waltz talked to Sosa and indicated that he was worried, not having heard from Argumedo. Sosa told him not to worry and stated he had given Argumedo $500 as a part of expense money, evidently for the trip to Mexico.

On December 28 Sosa called Waltz and told him Argumedo had returned and would call him the next day, which he did. Argumedo arranged a meeting with Waltz.

At the meeting, Waltz received a sample of narcotics from Argumedo. When Waltz had tested this privately, he talked to narcotic agents and returned to meet Argumedo again. He told Argumedo he was satisfied with the sample. Argumedo left and returned forty-five minutes later with the remaining narcotics, at which time he was arrested.

During the trial, Sosa asked for the name and address of the informant who introduced Waltz to him. This was furnished the next day, one day before the end of the trial. No request was made for a continuance in order to locate and subpoena the informant.

On appeal, it is argued that the Government should have done more, that the informant should have been produced or that Sosa should have been given, without motion on his part, sufficient time to seek out and interview the informant.

The informant was not a participant in the crime and was not shown to have been related to the acts involved. The record does not reveal the informant would have been or was thought to be a critical or even useful witness. In addition, assuming the informant might have been useful in testing Waltz's credibility with respect to his introduction to Sosa, Sosa failed to ask for a continuance to locate or interview the informant.

The Government satisfied its duty toward the conduct of a fair trial by supplying the name and address of the informant. The burden of the use of the information fell upon Sosa. Upon good cause shown, a continuance or further disclosure by the Government might have been proper. As Sosa was content with the information supplied, he will not now be heard to say he was prejudiced because the Government failed to do more than fairness required it to do.

As to the contention that Sosa was not proven guilty beyond a reasonable doubt, we note that, in essence, Sosa's attack is not upon the sufficiency of the evidence, but upon the credibility of witnesses, Sosa preferring his story to that of Waltz.

Generally, credibility determinations are not reviewable on appeal. Insofar as the sufficiency of the evidence is concerned, it is axiomatic that on an appeal from a conviction, the evidence and the inferences to be drawn from it are to be viewed in a light most favorable to the Government. *Glasser* v. *United States,* 315 U.S. 60 (1942). Reviewing the evidence under this stricture, we are unable to say that the evidence, together with the obvious credibility resolutions made by the trial court, does not prove Sosa guilty beyond a reasonable doubt.

Argumedo argues that the acts for which he was convicted were done at the solicitation of the Government; in short, that he was entrapped. This defense was presented to the trial court.

In reading the evidence, we are constrained, because of the finding of guilty and its attendant credibility resolutions, to assume the truth of the Government's case where it is essential to the verdict and where it conflicts with that of Argumedo.

The evidence simply does not correspond to Argumedo's theory that Waltz over a period of four months carefully nurtured in Argumedo the scheme to obtain narcotics and that he "incessantly belabored" Argumedo into capitulation. The evidence rather tends to show a Government use of artifice and strategem to present an opportunity for the commission of a crime. The Government may engage in such behavior without endangering its prosecution by a defense of entrapment. *Sherman* v. *United States,* 356 U.S. 369, 372 (1958); *Sorrells* v. *United States,* 287 U.S. 435, 441 (1932).

There is no undisputed testimony which "makes it patently clear that an otherwise innocent person was induced to commit the act complained of by the trickery, persuasion, or fraud of a government agent." *United States* v. *Millpax, Inc.,* 7 Cir., 313 F. 2d 152, 156-57 (1963), cert. den., 373 U.S. 903 (1963). We hold the record does not justify a conclusion that the Government must bear the responsibility for the criminal conduct in this case.

Argumedo's final contention is that the trial court abused its discretion and committed prejudicial error in refusing to permit him to present his testimony with the use of an interpreter.

The use of an interpreter is discretionary with the trial court. *Perovich* v. *United States,* 205 U.S. 86 (1907). In the instant case, the trial judge stated he could understand Spanish, a statement borne out by the record. Argumedo's testimony, however, was in English. We have examined it and find it does not disclose that he was hampered in understanding or testifying. For that reason and since the trial was to the court and the court knew Spanish, we conclude that the trial court did not abuse its discretion in denying the use of an interpreter.

The judgments of conviction appealed from are affirmed.

A true Copy:
Teste:

AFFIRMED.

Clerk of the United States Court of Appeals for the Seventh Circuit.

APPENDIX B

In the

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Thursday, June 15, 1967

Before

Hon. JOHN S. HASTINGS, *Chief Judge*
Hon. LATHAM CASTLE, *Circuit Judge*
Hon. LUTHER M. SWYGERT, *Circuit Judge*

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

No. 15810 vs.

SAMUEL SOSA,
Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

IT IS ORDERED by the Court that the petition for a rehearing of this cause filed by the appellant herein, be, and the same is hereby, DENIED.

In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 379

SAMUEL SOSA, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

The judgment of the court of appeals was entered on May 22, 1967. A petition for rehearing was denied on June 15, 1967. The petition for a writ of certiorari was filed on July 17, 1967, and is therefore out of time under Rule 22(2) of the Rules of this Court. There is, in any event, no occasion for further review.

After a non-jury trial in the United States District Court for the Northern District of Illinois, petitioner was convicted of conspiring to sell narcotics, in violation of 21 U.S.C. 174. On May 20, 1966 he was sentenced to imprisonment for six years. The court of appeals affirmed (Pet. App. A).

Federal Narcotics Agent Robert Waltz testified that, while working under cover, he was present at the

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Petite Lounge in Chicago on September 17, 1964. At that time an informer, Angelo Ramirez, introduced him to petitioner, the owner of the tavern (A. 2–3).[1] On November 17, petitioner approached Waltz and indicated that he had been enlisted by a friend to find a customer for a quantity of heroin (A. 3). A discussion about the quantity, quality, and price of the heroin followed, and resulted in petitioner's agreement to introduce Waltz to the friend. Petitioner told Waltz that his friend had one-half a kilogram of heroin, worth up to $14,000, for sale, and that if the entire amount were sold, petitioner would receive $2,000 for arranging the transaction (A. 3–4).

On November 23, 1964 petitioner telephoned Waltz and informed him that he would meet the supplier at 7 p.m. the following day at the Petite Lounge. Waltz was advised to call petitioner between 5 and 7 p.m. At 6:30 on November 24, Waltz communicated with petitioner, who stated that his friend had not yet arrived, and that the meeting place and time had been changed to the Cafe Olé at 8:30 p.m. (A. 4). At the latter time and place, Waltz met co-defendant Julio Argumedo, who introduced himself as "Sam's friend Julio from the Petite Lounge" (A. 5). Waltz and Argumedo left the cafe and drove in Waltz's car to a parking lot, where Argumedo told Waltz that his supply of heroin was still in Mexico (A. 5). On November 27, Waltz drove to the Cafe Olé with another agent, but entered the tavern alone. He met Argumedo there, and they engaged in another discussion. Argu-

[1] Citations are to "Appellant's Joint Appendix," filed with the Clerk of this Court.

medo said that he would arrange to go to Mexico and obtain the heroin (A. 5). On December 3, 1964, at the Petite Lounge, Waltz sat at a table with petitioner, Argumedo and another man. Waltz asked Argumedo whether the plans were still the same. Argumedo advised Waltz that "everything is all right" (A. 6). Petitioner turned to Waltz and asked, "Why should there be any changes?" Waltz replied that he was inquiring because he had "anxious customers."

On December 22, 1964, Waltz spoke with petitioner at the Petite Lounge. He expressed concern that he had not heard from Argumedo. Petitioner remarked that if anyone should worry, it should be he, because he had given Argumedo $500 as part of the "purchase money" (A. 6). On December 28, Waltz received a call from petitioner, who advised him that Argumedo had returned and would call the following day. He did so, and on the evening of December 29 sold heroin to Waltz in the latter's car. Agents who had maintained a surveillance of the car then arrested Argumedo (A. 7).

The sole issue presented in this case is whether the government was obligated to produce the "informer" who had introduced petitioner to Waltz two months before the first discussion concerning a sale of narcotics occurred. The informer, Ramirez, was not a participant in the crime. He was not present when negotiations commenced and never participated in the discussions between petitioner and Waltz or Argumedo and Waltz. Nevertheless, his name and physical description were given to petitioner's counsel during the cross-examination of Waltz. At that time the witness did not know the informer's address

(A. 8). The next day, when an address was furnished to counsel, he made no request for a continuance so that Ramirez could be located and subpoenaed.

The court below stated (Pet. 3a):

> As Sosa was content with the information supplied, he will not now be heard to say he was prejudiced because the Government failed to do more than fairness required it to do.

Since it is settled that under these circumstances the government, having disclosed its information about the informer, had no duty to produce him (see *Cooper* v. *California,* 386 U.S. 58, 62 n.2; *United States* v. *Repetti,* 364 F. 2d 54 (C.A. 2); *United States* v. *Simmons,* 338 F. 2d 804 (C.A. 2), certiorari denied, 380 U.S. 983; *Williams* v. *United States,* 273 F. 2d 781 (C.A. 9), certiorari denied, 362 U.S. 951), further review would be unwarranted.

It is respectfully submitted that the petition for a writ of certiorari should be denied.

THURGOOD MARSHALL,
Solicitor General.
FRED M. VINSON, JR.,
Assistant Attorney General.
BEATRICE ROSENBERG,
MERVYN HAMBURG,
Attorneys.

AUGUST 1967.

U.S. GOVERNMENT PRINTING OFFICE: 1967